

## **1.1 PURPOSE OF THE EIR**

This Environmental Impact Report (EIR) addresses the environmental effects of the proposed Fox Point Farms project (proposed project). The California Environmental Quality Act (CEQA) requires that government agencies consider the environmental consequences of projects over which they have discretionary approval authority.

The City of Encinitas (City) is the lead agency under CEQA and has determined that an EIR is required for the proposed project. An EIR is an informational document that provides both government decision-makers and the public with an analysis of the potential environmental consequences of a proposed project. This EIR has been prepared in accordance with the requirements of CEQA as set forth in Public Resources Code Section 21000 et seq. and 14 California Code of Regulations Section 15000 et seq. (CEQA Guidelines).

This EIR addresses the proposed project's environmental effects in accordance with CEQA Guidelines Section 15161. As referenced in CEQA Guidelines Section 15121(a), the primary purposes of an EIR are to inform decision-makers and the public generally of the significant environmental effects of a project, identify possible ways to minimize the significant effects of a project, and describe reasonable alternatives to a project.

This document analyzes the proposed project's environmental effects to the degree of specificity appropriate to the current proposed actions, as required by CEQA Guidelines Section 15146. The analysis considers the activities associated with the proposed project, including construction and operational activities, to determine the short- and long-term effects associated with their implementation. This EIR also considers the proposed project's direct and indirect impacts, and the cumulative impacts associated with other past, present, and reasonably foreseeable future projects.

Where potentially significant impacts are identified, the EIR specifies mitigation measures that are required to be adopted as conditions of approval or may be incorporated into the project to avoid or minimize the significance of impacts resulting from the project. In addition, this EIR is the primary reference document in the formulation and implementation of the project's Mitigation Monitoring and Reporting Program (MMRP).

Upon certification of the EIR, the Fox Point Farms project will be considered for approval by the City's Planning Commission. A decision to approve the proposed project would be accompanied by specific, written findings, in accordance with CEQA Guidelines Section 15091, and a specific,

written Statement of Overriding Considerations, in accordance with CEQA Guidelines Section 15093.

## 1.2 INTENDED USES OF THE EIR

This document is identified as a project-level EIR. It is an informational document intended to inform public agency decision-makers and the public of significant environmental effects of the proposed project, identify ways to minimize the significant effects, and describe reasonable alternatives to the project. Pursuant to CEQA, “the purpose of an environmental impact report is to identify the significant effect on the environment of a project, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided.” (Public Resources Code Section 21002.1[a]).

## DISCRETIONARY ACTIONS AND APPROVALS

The following public entities and/or agencies may use this EIR when considering the project:

### *City of Encinitas*

- Environmental Impact Report certification
- Density Bonus Tentative Map approval
- Coastal Development Permit
- Design Review Permit

Other public agencies whose approval may be required (e.g., permits, financing approval, or participation agreement):

- San Diego Regional Water Quality Control Board (RWQCB)
- San Diego County Department of Environmental Health (DEH)
- San Dieguito Water District (SDWD)

## 1.3 EIR SCOPE, ISSUES, CONCERNS

To determine the scope of this EIR, the City took the following actions:

- Distributed a Notice of Preparation (NOP) for the proposed project to request input from public agencies on the scope of the evaluation to be undertaken in the EIR.
- Held an agency public scoping meeting to request input from public agencies on the scope of the evaluation to be undertaken in the EIR.

The NOP and response letters and scoping meeting summary are provided in [Appendix A-1](#).

## NOTICE OF PREPARATION OF ENVIRONMENTAL IMPACT REPORT

Pursuant to Section 15082 of the CEQA Guidelines, a NOP was circulated to the California Governor's Office of Planning and Research (State Clearinghouse) and responsible agencies for a 30-day public review period commencing on March 27, 2020. Written comment letters received during the 30-day NOP public review period are found in Appendix A-1.

Key comments of environmental concern related to:

- Traffic congestion caused by the project's secondary access on Sidonia Street
- General traffic concerns resulting from the 250 residential units
- Density of the project
- Overflow parking onto Sidonia Street and surrounding roadways
- Existing flooding issues during storm events
- Noise from outdoor events at the restaurant and use of the amenities
- Visual incompatibility with the existing neighborhood due to project design and building heights
- Sensitivity of the adjacent Magdalena Ecke Open Space Preserve

An Initial Study was not required as part of the initial CEQA scoping process for the proposed project because an EIR was determined to be the appropriate environmental document, pursuant to Section 15063 of the State CEQA Guidelines.

## CITIZEN PARTICIPATION PROGRAM (CPP) MEETING

A Citizen Participation Program (CPP) public meeting was held for the proposed project on February 27, 2020 from 6:00 p.m. to 9:00 p.m. at Encinitas City Hall (Council Chambers). All property owners and occupants within a 500-foot radius of the project site were mailed a copy of the neighborhood letter and the vicinity map. Approximately 80-90 individuals attended the CPP public meeting. A full summary of the issues raised at the CPP meeting is included in Appendix A-2.

Key comments of environmental concern related to:

- Traffic congestion caused by the project's secondary access on Sidonia Street
- General traffic concerns resulting from the 250 residential units
- Density of the project
- Existing flooding issues during storm events

These issues have been considered in this EIR, where applicable. Based on consideration of the available technical reports and public comments, this EIR has been prepared at the project level

under CEQA Guidelines Section 15161 to assess and document the environmental impacts of the proposed project, with the following topics evaluated in detail:

- Aesthetics
- Air Quality
- Biological Resources
- Cultural Resources
- Energy Conservation and Climate Change
- Geology and Soils
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Noise
- Public Services and Recreation
- Transportation
- Tribal Cultural Resources
- Utilities and Service Systems

Other topics determined to have either no impact or a less than significant impact are discussed in Section 4.0, Effects Found Not to Be Significant, and listed below.

- Agriculture and Forestry Resources
- Mineral Resources
- Population and Housing
- Wildfire

## ENVIRONMENTAL REVIEW PROCESS

This Draft EIR, with an accompanying Notice of Completion (NOC), is being circulated to the State Clearinghouse, trustee agencies, responsible agencies, other government agencies, and interested members of the public for a 45-day review period in accordance with CEQA Guidelines Sections 15087 and 15105. During this period, public agencies and members of the public may submit written comments on the analysis and content of the Draft EIR. In reviewing a Draft EIR, readers should focus on the sufficiency of the document in identifying and analyzing the possible impacts of the proposed project on the environment and on ways in which the significant effects of the proposed project might be avoided or mitigated.

Comment letters should be sent to:

Scott VurbEFF, Environmental Project Manager  
City of Encinitas, Planning Division  
505 S. Vulcan Avenue  
Encinitas, CA 92024  
Email: [svurbEFF@encinitasca.gov](mailto:svurbEFF@encinitasca.gov)  
Phone: (760) 633-2692

Following the close of the public comment period, a Final EIR will be prepared to respond to all substantive comments related to environmental issues surrounding the proposed project. The Final EIR will be completed prior to the public hearing to consider certification of this EIR and approval of the Fox Point Farms project.

## 1.4 REPORT ORGANIZATION

The EIR is organized as follows:

- **Section ES, Executive Summary.** Summarizes the description and background of the proposed project, addresses the format of this EIR, discusses alternatives, and includes the potential environmental impacts and any mitigation measures identified for the proposed project.
- **Section 1.0, Introduction.** Describes the purpose of the EIR, the background of the proposed project, the NOP and scoping process, the use of incorporation by reference, and the EIR certification process.
- **Section 2.0, Project Description.** Describes the proposed project and its objectives, the proposed project site and location, approvals anticipated to be included as part of the project, the necessary environmental clearances for the proposed project, and the intended uses of the EIR.
- **Section 3.0, Environmental Analysis.** Contains a detailed environmental analysis of the existing (baseline) conditions, potential project impacts, recommended mitigation measures, and possible unavoidable adverse impacts for the following environmental issue areas:
  - Aesthetics (Section 3.1)
  - Air Quality (Section 3.2)
  - Biological Resources (Section 3.3)
  - Cultural Resources (Section 3.4)
  - Energy Conservation and Climate Change (Section 3.5)
  - Geology and Soils (Section 3.6)
  - Hazards and Hazardous Materials (Section 3.7)
  - Hydrology and Water Quality (Section 3.8)
  - Land Use and Planning (Section 3.9)
  - Noise (Section 3.10)
  - Public Services and Recreation (Section 3.11)
  - Transportation (Section 3.12)
  - Tribal Cultural Resources (Section 3.13)
  - Utilities and Service Systems (Section 3.14)

- **Section 4.0, Effects Found Not to Be Significant.** Summarizes effects found not to be significant.
- **Section 5.0, Alternatives to the Proposed Project.** Analyzes a reasonable range of alternatives to the proposed project, including the CEQA-mandated “No Project” alternative. The alternatives seek to achieve the basic objectives of the proposed project while reducing potential environmental effects associated with the proposed project.
- **Section 6.0, Other CEQA Considerations.** Summarizes the project’s significant and unavoidable impacts, energy conservation, and significant irreversible environmental changes. This section also includes a discussion of growth-inducing impacts, analyzing the potential environmental consequences of the foreseeable growth and development that could be induced by implementation of the proposed project.
- **Section 7.0, Preparers and Persons Consulted.** Identifies the preparers of the EIR, including the lead agency.
- **Section 8.0, References.** Identifies reference resources used during preparation of the EIR.
- **Appendices.** Contains the project’s technical documentation.

Table 1.0-1, CEQA-Required Sections and Location in the EIR, lists the required sections of the EIR and their location in the document.

**Table 1.0-1 CEQA-Required Sections and Location in the EIR**

CEQA Requirement	CEQA Section	Location in EIR
Table of Contents	15122	Table of Contents
Executive Summary	15123	Section ES
Introduction		Section 1.0
Project Description	15124	Section 2.0
Environmental Setting	15125	Sections 2.0 and 3.0
Significant Environmental Effects of the Proposed Project	15126[a]	Section 3.0
Mitigation Measures	15126[e]	Section 3.0
Cumulative Impacts	15130	Section 3.0
Effects Found Not to Be Significant	15128	Section 4.0
Alternatives to the Proposed Project	15126[f]	Section 5.0
Significant Unavoidable Environmental Effects of the Proposed Project	15126[b]	Section 6.0
Significant Irreversible Environmental Changes of the Proposed Project	15126[c]	Section 6.0
Growth-Inducing Impacts of the Proposed Project	15126[d]	Section 6.0
Preparers and Persons Consulted	15129	Section 7.0
Technical Appendices and other materials, including comments letters on the NOP and scoping meeting.		Appendices

Based on established thresholds of significance, the impacts of the proposed project have been categorized as “no impact,” “less than significant,” “less than significant with mitigation,” or “significant and unavoidable.” Mitigation measures are recommended for potentially significant impacts to avoid or lessen those impacts. In the event the proposed project results in significant impacts even after implementation of all feasible mitigation measures, CEQA Guidelines section 15093 enables decision-makers to nonetheless approve the proposed project with adoption of a Statement of Overriding Considerations. This determination would require the decision-makers to discuss how the benefits of the proposed project outweigh identified unavoidable impacts.

The CEQA Guidelines provide, in part:

*CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposal project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”*

Where the decision of the public agency allows the occurrence of significant effects that are identified in the Final EIR but are not mitigated, the agency must state in writing the reasons to support its action based on the Final EIR and/or other information in the record. This statement may be necessary if the agency also makes the finding under Section 15091(a)(2) or (a)(3) of the CEQA Guidelines.

If an agency makes a Statement of Overriding Considerations, the statement should be included in the record of the project approval and should be mentioned in the Notice of Determination (CEQA Guidelines Section 15093).

## **1.5 INCORPORATION BY REFERENCE**

In accordance with Section 15150 of the CEQA Guidelines, the following documents are incorporated by reference into this EIR and available for public review at the City of Encinitas, with a brief synopsis of each provided.

### **CITY OF ENCINITAS HOUSING ELEMENT 2019**

In March 2019, the Encinitas City Council adopted the Housing Element Update (HEU) which provides the City with a coordinated and comprehensive strategy for promoting the production

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**1.0 Introduction**

of safe, decent, and affordable housing for all within the City. The purpose of the HEU is to ensure that the City establishes policies, procedures, and incentives to increase the quality and quantity of the housing supply in the City. The HEU includes the 2013 - 2021 Housing Element Update and a series of discretionary actions to update and implement the City's Housing Element, including an amendment to the City's General Plan and Local Coastal Plan (described below), the Encinitas Ranch Specific Plan (described below) and adoption of updated Development Standards and Zoning Standards for properties that were included in the HEU.

Under the 2019 HEU, the project site was designated with an R-30 Overlay on approximately 14.2 acres and allocated between 246 and 296 units. Conforming edits were also made to the Encinitas Ranch Specific Plan to add an ER-R-30 zone and apply this new zoning to the project site.

On October 8, 2019, the City received certification from the State Department of Housing and Community Development (HCD) which confirmed the HEU was compliant with the State's requirements. As contained in its certification letter, HCD concluded:

*All approvals necessary to implement appropriate zoning and development standards, including CCC approval of an LCPA, are required to find Encinitas' Housing Element compliant with state Housing Element law (Article 10.6 of the Government Code). The September 16, 2019 correspondence, and associated documentation satisfy the requirements described in HCD's reviews. As a result, the March 13, 2019 adopted Housing Element complies with state Housing Element law (Article 10.6 of the Government Code).*

## **ENCINITAS RANCH SPECIFIC PLAN (AS AMENDED)**

The Encinitas Ranch Specific Plan (Specific Plan) provides guidelines for mixed-use land development for an approximate 852-acre planning area within the City of Encinitas. The Specific Plan was developed in accordance with the provisions of the City of Encinitas General Plan.

The Specific Plan Area is located approximately one mile south of La Costa Avenue and one-half mile north of Encinitas Boulevard, between the San Diego Freeway (I-5) and El Camino Real.

The proposed project site is located within the Sidonia East Planning Area of the Encinitas Ranch Specific Plan and is zoned for Multi-Family Residential use (ER-R-30), which is consistent with the General Plan, Zoning Map, Local Coastal Program, and the provisions of the 2019 Housing Element Update. The Specific Plan states that the proposed "agrihood" concept, with the development of between 246 and 296 residential units, is consistent with the goals of the Specific Plan for the proposed site. The following amendment description was added to the Encinitas Ranch Specific Plan with the 2019 HEU relative to the project site:



### **1.7 Specific Plan Amendment (Case No. 17-128)**

*The 2019 Specific Plan Amendment incorporated revisions to the Specific Plan in the Sidonia East Planning Area. In 2019, as part of the City's Housing Element Update, an approximately 16-acre portion of the Sidonia East Planning Area was designated for 246 to 296 multifamily residential units (at a density of 25 to 30 du/ac) as part of an "agrihood" development. The site sits at the junction of a major 4-lane arterial and a local 2-lane road. The owner had expressed interest in developing 250 residential units in conjunction with a working agricultural practice. The Agricultural Zone provisions of this Specific Plan encourage the continued agricultural use of portions of the Specific Plan Area and the provision of a favorable setting in which to continue agricultural operations. The "agrihood" concept proposed allows for the continued viability of an agricultural business on the site.*

## **CITY OF ENCINITAS GENERAL PLAN AND CERTIFIED LOCAL COASTAL PROGRAM**

The Encinitas General Plan serves as a policy document that provides long-range guidance to City officials responsible for decision-making with regard to the City's future growth and long-term protection of its resources. The General Plan is intended to ensure decisions made by the City conform to long-range goals established to protect and further the public interest as the City continues to grow and to minimize adverse effects potentially occurring upon ultimate buildout of the General Plan. The General Plan also provides guidance to ensure future development conforms to the City's established plans, objectives, and/or policies, as appropriate. Specific to the project site, the General Plan designates the site as SP-3, which refers to the Encinitas Ranch Specific Plan. In Sections 3.1 to 3.14 of this EIR, various relevant General Plan policies and goals are listed in the regulatory sections pertaining to each topic.

More than half of Encinitas lies within the boundaries of the California Coastal Zone (approximately 7,875 acres of a total 13,266 acres in the City). The California Coastal Act (Public Resources Code Section 30000 et seq.) is intended to protect the natural and scenic resources of the Coastal Zone. All local governments located wholly or partially within the Coastal Zone are required to prepare a Local Coastal Program (LCP) for those areas of the Coastal Zone within its jurisdiction. The state's goals for the Coastal Zone include the following:

- Protect, maintain, and where feasible, enhance and restore the overall quality of the Coastal Zone environment and its natural and artificial resources.
- Assure orderly, balanced utilization and conservation of Coastal Zone resources taking into account the social and economic needs of the people of the state.

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**1.0 Introduction**

- Maximize public access to and along the coast and maximize public recreational opportunities in the Coastal Zone consistent with sound resource conservation principles and constitutionally protected rights of private property owners.
- Assure priority for coastal-dependent and coastal-related development over other development on the coast.
- Encourage state and local initiatives and cooperation in preparing procedures to implement coordinated planning and development for mutually beneficial uses, including educational uses, in the Coastal Zone.

The City's General Plan includes issues and policies related to California Coastal Act requirements; therefore, the General Plan serves as an LCP Land Use Plan for the City. The General Plan/LCP incorporates land use plans for future development in the Coastal Zone, provisions of the City's Zoning Regulations, zone overlays for sensitive resources, and other implementing measures to ensure the protection of coastal resources. For those lands located within the Coastal Zone, any conflicts that occur between the Land Use Plan and any policy or provision of the General Plan not a part of the LCP, the Land Use Plan takes precedence. Any such conflicts are to be resolved so as to achieve the highest degree of protection for resources in the Coastal Zone.

The City is responsible for the issuance of Coastal Development Permits within the Coastal Zone, excluding submerged lands, tidelands, or public trust lands.

### **CALIFORNIA COASTAL COMMISSION STAFF REPORT: STAFF RECOMMENDATION ON CITY OF ENCINITAS LOCAL COASTAL PROGRAM AMENDMENT (MAY 31, 2019)**

Subsequent to the City's approval of the HEU, the City processed a Local Coastal Program (LCP) Amendment to update the City's LCP to include the 15 housing element sites. On September 11, 2019, the HEU was approved by the California Coastal Commission. Specific to the project site (on page 24 of the staff report), the Coastal Commission found that:

*As noted above, the Encinitas LUP has particular policies in place to protect agricultural uses. The Encinitas Ranch Specific Plan was created to carry out the LCP for the Ecke Ranch property and surrounding area and has particular policies in place that designate certain areas where affordable housing will potentially be sited. The LUP updates include modifications to several policies in order to account for the ER-R-30 Overlay Zone. Policy 24.3 will be modified to include the Sidonia East area, where the Echter Property is located. Policy 24.3 will also be modified so that the Sidonia East area is included as one of the neighborhoods that will consider the use of progressive*

*density and increased building heights. Finally, Policy 29.3 is proposed to be amended. It currently states that new residential development will be located and clustered to avoid inhibiting continued agricultural use of the land and should be sited adjacent to existing development. This LUP amendment will add language that in those instances where continued agricultural use is no longer feasible, sensitive residential development that allows for the continued viability of an agricultural business on the site shall be encouraged.*

*Indeed, while the R-30 Overlay zone [would] allow for the conversion of land currently in agriculture, land use conflicts [would] be minimized in accordance with Section 30242 of the Coastal Act. Through development of an agrihood, the site will be allowed to stay in agricultural use in conjunction with development that allows for affordable housing. In this way, conversion would be limited while also allowing for the City to meet its RHNA allotment. While not reflected in the land use designation, the agrihood concept would transform the agricultural portion of the site to a more traditional open field agricultural use and aesthetic, as opposed to the many greenhouses currently on-site.*

*Moreover, the partial conversion of the [project site] is compatible with surrounding land uses, as it marks a transitional boundary between more highly developed (i.e. residential) uses to the west and south, and less intensive uses to the north and east. The North Mesa Planning Area to the east of the Echter site and on the east side of Quail Gardens Drive is designated for golf course uses. Also, south of the Echter site and on the south side of Leucadia Boulevard, properties are designated for residential uses (at a density of 5 dwelling units per acre). To the north of the site is the Magdalena Ecke Park area, with a mix of agricultural, residential, and open space land uses north of the park area. In this way, the conversion of lands concentrates development by completing a logical and viable neighborhood and contributing to the establishment of a stable limit to urban development. Because of this mix of land uses, the subject site can be found to be consistent with Section 30242 of the Coastal Act in concentrating development.*

## **CITY OF ENCINITAS MUNICIPAL CODE**

Title 30, Zoning, of the Encinitas Municipal Code was adopted to promote and protect the public health, safety, and welfare through the orderly regulation of land uses in the City. Title 30 is intended to “regulate the use of real property and the buildings, structures, and improvements located thereon so as to protect, promote, and enhance the public safety, health and welfare” (Ord. 86-19). Further, the Zoning Regulations are “adopted pursuant to, and to implement

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**1.0 Introduction**

provisions of, the City of Encinitas General Plan and certified Local Coastal Program Land Use Plan. The regulatory provisions ... shall implement the provisions of the General Plan to carry out the objectives contained therein" (Ord. 94-06).

Under the City of Encinitas Zoning Map, the project site is zoned SP-3, which defers to the Encinitas Ranch Specific Plan. See above for additional information on the Encinitas Ranch Specific Plan.

Furthermore, as part of the HEU the City passed Ordinance No. 2019-04, which introduced use and development standards to implement the new General Plan land use (R-30 Overlay).

### **CITY OF ENCINITAS CLIMATE ACTION PLAN**

Climate action plans (CAPs) serve as comprehensive road maps that outline the specific activities a community or municipality will take to reduce greenhouse gas (GHG) emissions and the potential impacts of climate change within the borders of a particular jurisdiction. In developing a CAP, jurisdictions evaluate the volume of GHGs emitted during a baseline year and determine the amount of emissions that need to be reduced to achieve statewide GHG reduction targets.

The City of Encinitas CAP was most recently updated in January 2018 and builds upon the goals identified in the 2011 CAP. The updated CAP commits to implementing specific programs and projects aimed at reducing and mitigating the impacts of GHG emitting activities by targeted dates. The CAP organizes strategies, goals, and actions tied to various emissions sources (e.g., on-road transportation, electricity, natural gas, solid waste, water, off-road transportation, and wastewater). Of particular relevance to the proposed project, the CAP requires all new housing to be constructed with rooftop solar panels, low-flow fixtures, and solar water heaters. As of this time, the City has not adopted implementing ordinances for these requirements.